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In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 759

UNITED STATES OF AMERICA, APPELLANT

v.

ARMOUR & CO. AND GREYHOUND CORPORATION

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

BRIEF FOR THE UNITED STATES

OPINION BELOW

The opinion of the district court (App. 82–86) is not reported.

JURISDICTION

The order of the district court, dismissing the government's petition to make Greyhound Corporation a party and to issue an injunction against it (App. 88), was entered on June 30, 1970. The notice of appeal was filed July 31, 1970, and probable jurisdiction was noted on January 25, 1971 (App. 89). The jurisdiction of this Court is conferred by Section 2 of the Expediting Act of February 11, 1903, 32 Stat. 823, as amended, 15 U.S.C. 29. *United States* v. *Armour*

& Co. and General Host Corporation, probable jurisdiction noted, 396 U.S. 811, judgment vacated and case remanded with instructions to dismiss as moot, 398 U.S. 268; *United States* v. *United Shoe Machinery Corp.,* 391 U.S. 244.

QUESTIONS PRESENTED

The Meat Packers Consent Decree of 1920 (App. 27-45) prohibits Armour & Co. (a party to the Decree) from dealing directly or indirectly in numerous specified products customarily used and sold in food service operations and restaurants, and from having any direct or indirect interest whatsoever in any corporation that deals in those products. Greyhound Corporation (not a party to the Decree) has subsidiaries engaged in the food service and restaurant businesses. The questions presented are:

1. Whether Greyhound's acquisition of Armour created a relationship between Greyhound's subsidiary Armour and Greyhound's food service and restaurant subsidiaries that is prohibited by the Decree.

2. If so, whether the district court should have made Greyhound a party to the continuing decree proceedings and, after a hearing, should have issued an order supplemental to the decree requiring termination of the prohibited relationship.

STATUTES INVOLVED

Section 5 of the Sherman Act, 15 U.S.C. 5, provides:

> Whenever it shall appear to the court before which any proceeding under section 4 of this title may be pending, that the ends of justice

require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

The All Writs Act, 28 U.S.C. 1651, provides in pertinent part:

> (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

STATEMENT

This appeal continues the controversy, interrupted a year ago, whether the 1920 Meat Packers Decree can prevent a corporation that under the Decree could not be acquired by Armour from itself acquiring Armour. The issue was before the Court last Term on the government's challenge to General Host Corporation's acquisition of Armour, but the Court held it moot after General Host abruptly transferred its Armour stock to Greyhound Corporation, the present appellee. *United States* v. *Armour & Co. and General Host Corporation,* 398 U.S. 268. Since Greyhound, like General Host, has food interests forbidden to Armour under the Decree, the government promptly asked the district court for the same relief against Greyhound that it had sought against General Host, and the district court again denied relief. This appeal presents the same legal questions that were before the Court last Term.

A. THE MEAT PACKERS DECREE

The Decree underlying this litigation was entered on February 27, 1920, in settlement of a civil antitrust suit brought by the government against Swift & Co., Armour & Co., Wilson & Co., Inc., Cudahy Packing Co. and Morris & Co. (which was subsequently acquired by Armour). The government's bill in equity, which followed a comprehensive Federal Trade Commission investigation of the meat packing industry,[1] charged that the defendants and some 80 other associated corporations and individuals were attempting to monopolize a substantial part of the nation's food supply and to extend the monopoly by various means.[2] The stated purpose of the suit was to end the monopoly and deprive the defendants of the instrumentalities by which it was being achieved. See *Swift & Co.* v. *United States,* 276 U.S. 311, 319 (hereinafter, *Swift I*).

The bill alleged that, by reason of their size and predatory practices, the five largest meat packing companies had acquired control of the "supply and the price of the food supplies of the Nation" in violation of the Sherman and Clayton Acts (App. 10).

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[1] *F.T.C. Food Investigation: Report on the Meat Packing Industry, 1919.* The Report was part of a series of proceedings and investigations concerning collusive monopolization of the food industry by the leading packers. See *Swift & Co.* v. *United States,* 276 U.S. 311, 319, n. 1.

[2] The bill was filed in the District of Columbia. In 1958, in proceedings for modification of the decree, the case was transferred under 28 U.S.C. 1404(a) to the Northern District of Illinois. *United States* v. *Swift & Company,* 158 F. Supp. 551 (D.D.C.).

Specifically, the bill charged that the defendants had gained control of the nation's dominant stockyard facilities, the terminal railroads connecting the yards with long-haul rail lines, and the trade newspapers and market journals, and had developed vast national systems of meat distribution (App. 11–19). The defendants had used these controlled facilities and the power that came from their great size to eliminate their competitors as significant factors in the marketing of livestock and, in order to eliminate competition among themselves, had entered into percentage purchasing arrangements allocating shares of the total supply offered at the various stockyards (App. 19–20). The bill further charged that, having destroyed competition in meats, the defendants also sought to gain control of other food supplies that might be substituted for meat. That objective was pursued through acquisitions of non-meat food companies and exclusive output contracts with others. In marketing these "substitute" products the defendants utilized their existing distributive facilities at virtually no increase in overhead or operating expenses (App. 20–21).

The government's bill expressed special concern with the increasing economic power of the packer defendants arising out of their interests and those of their officers, directors and principal stockholders in some 672 corporations engaged in a variety of businesses relating to meat and substitute foods. "Of the corporations which have been acquired by the parent companies in recent years, a large number are concerns manufacturing or selling these substitute foods

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or unrelated commodities" (App. 22–24). The prayer for relief sought, *inter alia,* divestiture of most of the incidental non-packing operations, prohibition of use of the packers' distributive facilities for substitute foods, and permanent exclusion of the defendants from the substitute food lines (App. 24–26).

The decree agreed to by the parties and subsequently approved by the court granted in general the relief sought in the government's bill, with relatively limited reflections of compromise.[3] By way of "behavioral" remedy the decree enjoined the defendants from further combinations and conspiracies in restraint of trade and illegal trade practices (App. 28–29, 37). The great bulk of the decree, however, was devoted to an elaboration of "structural" prohibitions calculated to exclude the defendants perpetually from a wide variety of food lines other than meat packing, as well as from various activities incidental to the distribution of meats and substitute foods. Paragraph Fourth provided

> That the corporation defendants and each of them be, and they are hereby, perpetually enjoined and restrained from, in the United States, either directly or indirectly, by themselves or through their officers, directors, agents, or servants, engaging in or carrying on, either by concert of action or otherwise, either for domestic trade or for export trade, the manufacturing, jobbing, selling, transporting (ex-

[3] See *United States* v. *Swift & Co.*, 286 U.S. 106, 111; *United States* v. *Swift & Co.*, 189 F. Supp. 885, 892 (N.D. Ill.), affirmed, 367 U.S. 909.

cept as common carriers), distributing, or otherwise dealing in [114 specified food products (principally fish, vegetables, fruit, groceries and bakery products) and 30 other products] except when such products or commodities are purchased, transported, or used (1) as supplies in operating their packing houses, branch houses, or other facilities used by them, or as an incident in the processes of manufacturing soap or packing-house products; (2) in the construction and physical maintenance of their packing houses, branch houses, or other facilities used by them; (3) in the operation of their restaurants, laundries, or other conveniences, primarily for the benefit of their employees; or (4) in combination with meat * * *. [App. 30.]

And the corporation defendants and each of them be, and they are hereby, further perpetually enjoined and restrained from owning, either directly or indirectly, severally or jointly, by themselves or through their officers, directors, agents, or servants any capital stock or other interest whatsoever in any corporation, firm, or association except common carriers, which is in the business, in the United States, of manufacturing, jobbing, selling, transporting, except as common carriers, distributing, or otherwise dealing in any of the above-described products or commodities. [App. 33.]

Similar prohibitions were established with respect to fresh milk and cream (paragraph Eighth, App. 36–37), and the packers were further prohibited from owning, operating or conducting, directly or indirectly, any retail meat markets (Paragraph Sixth, App.

35–36). Paragraph Third forbade use of the packers' "distributive system and facilities" in the forbidden food lines (App. 29–30). In sum, a complete and continuing separation was decreed between the meat packer defendants and the general food business including meat retailing.[4]

Paragraph Eighteenth of the decree provided that the court retained jurisdiction "for the purpose of taking such other action or adding to the foot of this decree such other relief, if any, as may become necessary or appropriate for the carrying out and enforcement of this decree and for the purpose of entertaining at any time hereafter any application which the parties may make with respect to this decree" (App. 42).

The basic validity of the consent decree was soon challenged, unsuccessfully, by Armour and the other defendants (*Swift I, supra;* see, also, *United States* v. *California Cooperative Canneries,* 279 U.S. 553). In 1930, Armour and the other packer defendants, claiming that their power had declined and that conditions in the food business had changed, sought to have the decree modified so as to relieve them from the structural bars against engaging in various aspects of the general food and retail meat businesses. This Court rejected their effort in *United States* v. *Swift & Co.,* 286 U.S. 106 (hereinafter *Swift II*). The packer de-

[4] In contrast to the corporate defendants, the individual stockholder defendants, however, were enjoined only from holding an interest of 50 percent or more in firms engaged in the forbidden lines of commerce (Paragraph Fifth, App. 33–35).

fendants again sought similar relief on similar grounds in 1956; after an elaborate factual reexamination of the decree's purpose and of the nation's food industry as then structured, the district court in 1960 refused to modify the decree and this Court summarily affirmed. *United States* v. *Swift & Co.*, 189 F. Supp. 885 (N.D. Ill.), affirmed, 367 U.S. 909 (hereinafter *Swift III*).

B. THE PRESENT LITIGATION AND ITS ORIGINS

Armour is currently the second largest meat packer in the United States, with total assets of more than $600 million and total sales in 1969 of approximately $2.15 billion. In addition to meat packing, Armour has diversified into the manufacture, processing, and sale of various non-prohibited products, such as dairy products, soaps and household cleaners, industrial chemicals, pharmaceuticals, construction equipment, heavy machinery and industrial equipment (Moody's *Industrial Manual*, 1970, pp. 2676–2681).[5]

[5] The nation's leading meat packers rank as follows (based on *Moody's Industrial Manual*):

	Total assets	*1969 sales*
Swift	$744,059,000	$3,107,600,000
Armour	607,224,000	2,153,357,000
Wilson	226,989,000	1,285,514,000
John Morrell & Co. (a subsidiary of AMK Corp., which engages in a number of other businesses; sales figure is for 1968, the last year for which separate information on Morrell is available).		812,114,300
Iowa Beef Processers, Inc.	94,378,000	675,068,000
Geo. A. Hormel & Co.	115,787,624	626,017,304
Oscar Mayer & Co., Inc.	141,776,454	566,045,750
Hygrade Food Products Corp.	58,951,211	359,828,930
Cudahy	72,829,767	353,968,508

These figures are not completely comparable since some of the companies (including Armour) have substantial non-meat-packing lines, but we believe they provide a rough basis for ranking the packers.

Early in 1969, General Host Corporation made known its intention to acquire control of Armour. On January 20, 1969, the government filed a petition seeking a supplemental order to forbid General Host from gaining control of Armour because of General Host's operation of food businesses forbidden to Armour under the Meat Packers Decree. On January 30, 1969, the district court denied the petition, ruling that while the decree prohibits Armour from holding any interest in a company handling any of the prohibited products, it does not prohibit such a company from taking over Armour (see Brief for the United States in No. 103, 1969 Term, 7–10).

The government appealed and this Court noted probable jurisdiction on October 13, 1969. The case was then briefed on the merits and argued orally on March 5, 1970.

Meanwhile, General Host had entered into an agreement to sell its controlling stock interest in Armour to Greyhound. Because Greyhound was a regulated motor carrier, it needed Interstate Commerce Commission approval for the acquisition. The Department of Justice had advised Greyhound and General Host on November 24, 1969, that—because Greyhound was also engaged in food businesses prohibited to Armour under the decree—it considered Greyhound's potential ownership of Armour just as inconsistent with the decree as General Host's ownership (App. 58). The Department expressed this same position in a paper filed with the Interstate Commerce Commission and accordingly urged the Commission to defer action on

Greyhound's application until this Court's decision. The Commission declined, however, to do so and granted the application on the afternoon of May 14, 1970 (*The Greyhound Corporation Securities,* Order dated May 14, 1970, served May 15, 1970, I.C.C. Fin. Dkt. No. 26056). The transfer of the stock to Greyhound was consummated early that same evening.[6] General Host submitted a suggestion of mootness, the government opposed and Greyhound submitted a memorandum urging the court to affirm.[7] On June 1, 1970, this Court vacated the judgment below and directed the district court to dismiss the petition against General Host as moot, Mr. Justice Douglas dissenting, 398 U.S. 268.

On June 18, 1970, the government filed a new petition in the district court alleging (as it had against General Host) that Greyhound is engaged in businesses forbidden to Armour or any firm in which Armour has any direct or indirect interest, and that Greyhound's ownership of Armour therefore creates a corporate relationship forbidden by the Meat Pack-

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[6] At the time of the consummation, the United States was about to apply to Mr. Justice Marshall, at his home, for a temporary injunction against such consummation. The government had previously informed General Host's counsel of its intention to seek such relief and had requested that the transaction be deferred for 24 hours to permit the filing and determination of the application; General Host's counsel forwarded the request to the parties in Chicago, where the closing took place, but they refused the postponement.

[7] These materials are set forth in the Supplemental Appendix; they describe the events of May 1970 in somewhat greater detail.

ers Decree. The petition (virtually identical with that in *General Host*) asked that Greyhound be brought before the court under Section 5 of the Sherman Act and that an order supplemental to the decree be entered enjoining Greyhound from acquiring any additional stock or acting to exercise control over or influence the business affairs of Armour, and requiring Greyhound to divest itself of the Armour stock (App. 51).

The affidavit supporting the government's petition showed that Greyhound deals in food products covered by the decree through its divisions and wholly-owned subsidiaries, which provide industrial catering services and operate restaurants, cafeterias and other eating facilities in commercial plants, bus stations and elsewhere; and that in 1969 Greyhound had revenues of about $124 million from food operations, which accounted for more than 16 percent of its total revenues of $688 million.[8] Greyhound filed no response to

[8] The uncontradicted affidavit stated:

> The Greyhound Corporation, through its divisions and wholly-owned subsidiaries, is engaged in the business of jobbing, selling, distributing, or otherwise dealing in products or commodities listed in the consent decree. Its subsidiary, Prophet Foods Company, is engaged in industrial catering. It operates eating facilities in industrial plants, schools, hospitals, nursing homes, and other commercial establishments. In 1968 it had sales in excess of $77 million. Through Post Houses, Inc., Greyhound operates restaurants in its bus stations and at rest and meal stop locations. Post Houses had sales in excess of $33 million in 1968. Greyhound's Miami Cafeterias, Inc., operates a small chain of cafeterias in Florida and Georgia, with sales of more than

the government's petition, but it was represented by counsel who was permitted to argue off-the-record at the hearing thereon (See App. 78).[9]

The district court dismissed the government's petition on the ground that it failed to state a claim on which relief could be granted (App. 86), giving essentially the same reasons that the same judge had given earlier in denying relief against General Host. Since Greyhound itself is not a party to the original decree and is not charged with assisting or causing Armour to do any forbidden act, the court held, it is not "bound in any way by the decree and may not be enjoined from committing any acts on the ground that they are prohibited by the decree" (App. 84). In disposing of the government's contention that by acquiring Armour stock, Greyhound has placed Armour in a "corporate relationship" with a company that deals in prohibited food items, the court held that:

> the decree does not speak in terms of corporate relationships; it speaks in terms of the defendants dealing in the specified lines of commerce, and to make out a violation the government must charge such dealing by the party to the decree. [App. 84.]

$3 million in 1968. In 1969 Greyhound's food operations had revenues of $123.8 million and accounted for over 16% of its total revenues.

We are informed that Greyhound has since sold Miami Cafeterias (See Motion to Affirm p. 18, footnote).

[9] The district court denied the government's request that the argument on behalf of Greyhound be on the record.

A consent decree, the court ruled, has no "purpose" that can be "the basis for an extension of its terms to a situation not expressly covered thereby" (App. 85).

* * * * *

We call the Court's attention to certain undisputed further developments in Greyhound's relationship with Armour. The transaction with General Host gave Greyhound about 86 per cent of Armour's stock, and Greyhound shortly made known its intention to acquire the remaining stock (App. 58); we are informed that Greyhound now in fact holds 100 per cent of the Armour stock through its wholly owned subsidiary Greyhound Food Management, Inc. Greyhound controls the Armour Board of Directors, and Greyhound's Chairman and Vice President (Food) are the Chairman and Vice-Chairman, respectively, of Armour. Greyhound has sold certain of the Armour subsidiaries to third parties.

SUMMARY OF ARGUMENT

The Meat Packers Decree of 1920, which retains both its legal force and its economic foundation today, perpetually bars Armour from dealing directly or indirectly in the food lines specified in the Decree and from having any interest whatsoever in any company that deals in those lines. Greyhound, which has made Armour its wholly owned subsidiary, has other subsidiaries that deal directly in the forbidden food lines in their extensive retail food service and restaurant operations; there is no substance to the sugges-

tion that such operations do not "deal in" the foods within the meaning of the decree, as is shown *inter alia* by the necessity of a special exception in Paragraph Fourth allowing the packers to operate restaurants for their employees. Thus, it is clear that Armour would be forbidden to acquire any interest in Greyhound or its food subsidiaries.

When one of the defendant meat packers enters an ownership relation with a firm which buys meat for sale to consumers, or which is substantially engaged in the prohibited food lines, then regardless of the form the transaction takes, the separation intended by the Decree is destroyed. It is immaterial whether a defendant itself engages in a prohibited business, acquires an interest in a firm in that business, consents to its own acquisition by such a firm, or is acquired by such a firm against its will by a successful tender or exchange offer to its stockholders. Indeed, Armour's relationship to its sister food subsidiaries of Greyhound is identical with the relationship that would have resulted from Armour's own acquisition of control through the conventional creation of a holding company, something that would plainly violate the Decree. And Armour and the other subsidiaries have interlocking directorates and managements as well as common ownership. Putting remedial problems to one side for the moment, it is plain that this kind of corporate relationship gives Armour an "interest" in the business of its sisters within the literal language of the decree as well as in economic reality. The packers' lack of success in having the

Decree modified over the years reflects what is clear on its face—that the Decree's purpose is principally structural rather than behavioral. Thus, interference with the Decree is properly assessed in terms of objective relationships, not in terms of cause or motive or the innocence of those who happen to be owners or managers at a particular time of guilt under the antitrust laws. And in such objective terms Greyhound's acquisition of Armour tends to defeat the Decree just as much as Armour's acquisition of Greyhound would.

Traditional equitable principles give a court ample power to protect its decree from such interference, obstruction or frustration by a non-party. After appropriate notice and hearing to determine whether a non-party is undermining its injunction, a court can issue a supplemental order against him restraining such interference, as the federal courts have done, for example, in school desegregation cases. The power of the district courts to protect the integrity of their decrees in this manner derives from the inherent nature of their equitable jurisdiction, from the All Writs Act, 28 U.S.C. 1651(a), and, in antitrust cases, from the specific provision of Section 5 of the Sherman Act giving jurisdiction to bring additional parties before the court where the ends of justice so require. Our position is not that the decree should be read or modified to run against the world, to subject persons not named as parties to punishment for contempt. On the contrary, the government's petition requested the district court to bring Greyhound

before it for a hearing and adjudication whether Greyhound's ownership of Armour interferes with or violates the decree; then and only then would the district court frame an appropriate order that would be binding on Greyhound *in personam*.

To say that the court could not remedy such a situation, is to treat a structural antitrust decree as nothing more than a means for preventing the particular wrongdoers originally brought before the court from repeating their misconduct, without any force to prevent third persons from recreating precisely the business relationship that the decree was designed to eliminate and specifically forbids. Such a principle would seriously undermine the efficacy of the government's many structural antitrust decrees, whose very reason for existence is to prevent anticompetitive business relationships from coming into existence without the need for *de novo* proof of wrongdoing or harm.

ARGUMENT

I. THE STRUCTURAL TERMS OF THE MEAT PACKERS DECREE PROHIBIT ARMOUR FROM HAVING ANY INTEREST WHATSOEVER IN GREYHOUND'S FOOD OPERATIONS.

The structural remedies that make up the bulk of the Meat Packers Decree specifically preclude Armour and the other packer defendants, perpetually, from "directly or indirectly * * * engaging in" the forbidden food lines and from having "directly or indirectly * * * any capital stock or other interest whatsoever" in any company in the forbidden business.

The unmistakeable premise of the structural restrictions was that the great size and economic power of the defendant packers gives them enormous competitive leverage in the production and distribution of all kinds of food supplies throughout the nation. The Decree was thus intended both to restore competition in the meat industry by separating packing from retailing and to eliminate the threats to competition in the production, wholesaling and retailing of all kinds of food products that were presented by the intrusion of the packers' power into the various levels of the general food business.

More than a decade of litigation was required before this structural relief became operative (see *Swift III*, 189 F. Supp. at 893, 898), and the exclusion of the meat packers from the forbidden food lines has been maintained over three successive challenges—one by a non-party which sought to intervene for this purpose (*United States* v. *California Cooperative Canneries*, 279 U.S. 553) and two by the corporate defendants themselves (*Swift II*, 286 U.S. 106, *Swift III*, 189 F. Supp. 885, affirmed, 367 U.S. 909). Only ten years ago, in *Swift III*, this Court considered the decree once again and sustained the judgment court's refusal to lower the structural barrier. 367 U.S. 909.

The Decree's clear purposes and its continuing vitality have been articulated in the opinions of this Court and the judgment court considering it over the years. Thus, in 1932 this Court rejected the packers' contention that the structural prohibitions on general food dealings and meat retailing were no longer needed

because of the restoration of competition among the packers and changes in the food business, explaining the situation as follows (*Swift II*, 286 U.S. at 116-117):

> Whether the defendants would resume [their predatory practices] if they were to deal in groceries again, we do not know. They would certainly have the temptation to resume it. Their low overhead and their gigantic size, even when they are viewed as separate units, would still put them in a position to starve out weaker rivals. Mere size, according to the holding of this court, is not an offense against the Sherman Act unless magnified to the point at which it amounts to a monopoly [citations omitted] but size carries with it an opportunity for abuse that is not to be ignored when the opportunity is proved to have been utilized in the past. The original decree at all events was framed upon that theory. It was framed upon the theory that even after the combination among the packers had been broken up and the monopoly dissolved, the individual units would be so huge that the capacity to engage in other forms of business as adjuncts to the sale of meats should be taken from them altogether. * * * To curb the aggressions of the huge units that would remain, there was to be a check upon their power, even though acting independently, to wage a war of extermination against dealers weaker than themselves. * * * Groceries and other enumerated articles they were not to sell at all, either by wholesale or by retail. Even the things that they were free to sell, meats and meat products, they were not to sell by retail.

In 1961, this Court summarily affirmed the judgment court's refusal, after extended hearings, to relax these structural limits. 367 U.S. 909. The judgment court rejected the packers' contention that "[m]odification now is warranted * * * since the individual officers who formerly controlled company policies are no longer in power, and since the defendants have remained law-abiding for a substantial period of time." *Swift III,* 189 F.Supp. at 909. It concluded that "The separation, once complete, was to continue. So long as the power endures, therefore, the divestiture must be maintained * * *." *Ibid.*

Armour remains today the second largest firm in the meat packing industry, which continues to be dominated by a relatively few large firms.[10] The economic importance of such a giant meat packer is shown by the fact that meat represents about one-fourth of all consumer expenditures for food.[11] Thus, the structural restrictions of the Meat Packers Decree are no mere historical remnant, but rather constitute an important bulwark of competition in the food

[10] Despite a definite trend toward decentralization in U.S. commercial meat production, the Food Marketing Commission reported that in 1964 the top four firms accounted for 28.7% of the market, and the top eight, 37.1%. *Organization and Competition in the Livestock and Meat Industry*, Tech. Study No. 1, National Commission on Food Marketing (1966), p. 9 (hereinafter, "Food Marketing Study"). The three largest firms (Swift, Armour and Wilson) are parties to the present Decree.

[11] Food Marketing Study, p. 1.

industry.[12] And those restrictions continue to exclude Armour from any connection, *inter alia,* with the retailing of either meats or the 114 prohibited food products enumerated in the Decree.

As we have noted (p. 12, *supra*), Greyhound's two present food subsidiaries other than Armour, Prophet Foods and Post Houses, have extensive retail food service and restaurant operations. Greyhound's food operations produced 1969 revenues of almost $124 million, representing more than sixteen percent of Greyhound's total revenues.[13] These food subsidiaries sell in prepared form a great many of the forbidden food products enumerated in Paragraph Fourth of the Decree, including fish, vegetables, fruit, soft drinks, condiments, coffee, tea, chocolate, cocoa, nuts,

[12] Because of the continuing nature of this decree, the Department re-examines it periodically in the light of changing conditions in the economy. Cf. *White House Task Force Report on Antitrust Policy*, 115 Cong. Rec. S5642, S5648–5649 (daily ed. May 27, 1969); *Report of the Attorney General's National Committee to Study the Antitrust Laws* (1955), p. 366. The Department currently has under consideration a request by one of the packer defendants other than Armour that it support a proposal to modify the decree so as to permit entry into certain product lines presently prohibited by the decree. Although this matter has not been finally resolved, the Department has concluded that, in light of contemporary conditions, it will not consent to any proposed modification that would permit the packers to enter any form of meat or general food retailing.

[13] These revenues did not, of course, yet include Armour. In addition to Prophet Foods and Post Houses they did presumably include the relatively small operations of Miami Cafeterias, Inc. ($3 million sales in 1968), which Greyhound has subsequently sold. See p. 12, n. 8, *supra*.

bakery products and cereals, as well as fresh milk and cream (forbidden under Paragraph Eighth) and meat (the retailing of which is forbidden under Paragraph Sixth). Thus, Armour is strictly prohibited under the decree from dealing in the food lines in which these two large Greyhound subsidiaries are engaged, and Armour cannot acquire these companies or have "any interest whatsoever" in them.

There is no substance to Greyhound's contention (advanced in its Motion to Affirm at pp. 18–24, but not considered by the district court) that the Decree's prohibition on "directly or indirectly * * * selling, * * * distributing, or otherwise dealing in" the forbidden foods somehow excludes the kind of selling, distributing and otherwise dealing in them that is carried on by industrial food service and restaurant operations. That there is no exception for prepared food is underlined by the specific exception in Paragraph Fourth permitting the packers to operate "restaurants * * * primarily for the benefit of their employees"; such an exception would obviously not be necessary if all restaurants were excluded from the general language of the prohibition. Certainly a major food service and restaurant operation that purchases large quantities of the products enumerated in the Decree for preparation and retail sale must be said to "deal in" those commodities as that term is normally construed. The fact that some (but not all) courts have concluded that retail food service does not constitute a "sale" at common law so as to

give rise to implied warranty protections (*Id.*, p. 23), plainly is not controlling on the issue whether retail food service operations are a commercial activity forbidden under a specific antitrust decree. Medieval concepts of innkeepers' "utterances" of meals are not controlling in an era of great restaurant chains and industrial catering operations characterized by centralized purchasing and mass merchandising.

The potential for competitive mischief that would inhere in the combination of meat packing with retail meat, dairy and other food operations inheres equally in the combination of a meat packer with a large retail food service operation such as Greyhound's. In the commercial meat industry there is a substantial imbalance between the bargaining power of sellers and large buyers. Meat is normally in abundant supply, thus disadvantaging sellers, and "bargaining strength is enhanced by being positioned in the marketing channel closest to consumers." Food Marketing Study, p. 49. Large, strategically positioned buyers are able to exact substantial concessions from sellers, and "[c]oncessions to powerful meat buyers which are unjustified by cost savings impair free and open competition. Less powerful buyers pay higher prices than justified by cost. In addition, such practices handicap alternative sellers in competing freely and openly on the basis of price, quality, or service." *Id.* at 54. In 1963 approximately 35 percent of all red meat consumed was consumed away from home (Food Marketing Study, p. 43). Competitive relations in this large segment of the market are as important as distribution

to outlets for home consumption. A food service operation as large as Greyhound's with its extensive network of restaurants and large industrial catering services, is an enormous buyer of meat products.[14] The combination of a packer with such a large buyer creates a substantial risk of unjustified price concessions, foreclosure of other sellers by intra-corporate preference for products of a sister subsidiary, and similar threats to competition in the meat industry. In addition, it links the packing firm with a large scale retail operation dealing in a wide range of other food products covered by the Decree. Thus the competitive dangers the Decree was intended to forestall are potentially present in a combination of Armour with a retail food operation like Greyhound's as they would be in a combination with a large grocery chain. The Decree is intended to relieve the government from the necessity for awaiting and "ferreting out" such anticompetitive activities by establishing a structural barrier that will keep them from arising (*Swift II*, 286 U.S. at 118–119.)

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[14] 1969 figures are reflected in a soon-to-be published survey conducted by the Economic Research Service of the Department of Agriculture. The data, now available to the public, show that total civilian sales at retail of food consumed away from home (including alcoholic beverages) were $26 billion. Of this figure, red meat (beef, pork, lamb, and veal) accounted for $10.7 billion or 41.1 percent. Turkey and chicken account for an additional $1.5 billion, raising the total to 47 percent.

II. GREYHOUND'S ACQUISITION OF ARMOUR HAS GIVEN ARMOUR A PROHIBITED INTEREST IN GREYHOUND'S OTHER FOOD SUBSIDIARIES, CREATING A RELATIONSHIP THAT DEFEATS THE EFFECTIVENESS OF THE DECREE

We have shown that the Meat Packers Decree absolutely forbids Armour to have "any interest whatsoever" in Greyhound's other food subsidiaries or to deal in any way in their products. It is plain, therefore, that Armour could not have acquired any stock either in Greyhound or in Greyhound's other food subsidiaries. By the same token, there can be little doubt that Armour was forbidden to form a holding company which, owning all of the Armour stock, then acquired Greyhound's food subsidiaries; even though there is no express provision in the decree (or in F.R. Civ. P. 65(d)) making the structural restrictions applicable to "successors and assigns", it seems evident that this kind of manipulation of corporate structures would not avoid the effect of the Decree. Nor, similarly, could Armour have acquired another operating company, made itself a wholly owned subsidiary of that company, and then had the new parent company acquire the food subsidiaries. But the result of this last series of maneuvers would be exactly the result that now prevails by reason of Greyhound's making Armour a wholly owned subsidiary while retaining its food subsidiaries. There is no structural or economic difference whatever arising out of the fact that

Armour as a corporate entity was passive rather than active in the financial and legal transactions that have occurred. As we have indicated, the common ownership of Armour and the other food subsidiaries is implemented by interlocking managements and boards of directors, all of which are under the parental control of a Greyhound management that is necessarily committed to making the most efficient use of all subsidiaries for the maximum financial benefit to Greyhound's stockholders.

In short—saving for the next section the question of remedy—we think it indisputable that Armour now has an "interest" in its sister subsidiaries of Greyhound that are engaged in forbidden food lines; the relationship is so close, moreover, that Armour cannot realistically be said not to be "dealing in" the products in which those other branches of the same enterprise deal. And of course the economic dangers of common ownership of the meat packing and general food businesses are unaffected by the fact that it was Greyhound's management (the present management of Armour) rather than Armour's former management that engineered it. In short, the situation that now prevails has broken down the separation decreed by the structural provisions of the Meat Packers Decree.

The essence of the district court's holding that the government's petition failed to state a claim was its view that

> [T]he decree does not speak in terms of corporate relationships; it speaks in terms of the

defendants dealing in the specified lines of commerce, and to make out a violation the government must charge such dealing by a party to the decree. [App. 84.]

Putting to one side our argument that the relationship between Armour and its sisters is so close that both "deal in" the same lines, the district court's holding is based on a literally incorrect reading of the Decree. It ignores the provisions expressly prohibiting any Armour "interest whatsoever" in a company in a forbidden line. And of course the "interest" language can refer only to the kind of corporate "relationships" that the district court said were not mentioned in the decree.

Under the district court's ruling, should Greyhound decide to dispose of its interest in Armour, as did General Host, it could sell to yet another company engaged in the food business. Such a firm would, indeed, be a most likely purchaser. Control of Armour could pass, for example, to one of the great supermarket chains such as A & P, Safeway or Kroger, so long as the form of the transaction was a bare stock transfer. Yet Armour would be in contempt if it acquired any interest in the same food chain, or, as a corporation, consented to its acquisition by such a firm. As another example, although Swift & Co., one of the defendants, was required by the decree to divest itself of any interest in Libby, McNeil and Libby, a leading canner, Libby could, under the district court's ruling, have turned around and restored the relationship by acquiring control of Swift. Such an approach

elevates form over substance to the point of totally defeating the effectiveness of the Decree.

The district court's holding that the relationship between Armour and its sisters is not inconsistent with the decree is based fundamentally upon its reading of the decree as a purely "behavioral" document and a failure to recognize in this context that the court in 1920 had also, and indeed primarily, decreed prophylactic *structural* relief designed to prevent the forbidden situations from coming into being without regard to actual misbehavior. This is a somewhat strange approach in light of the same court's express recognition in the modification context ten years ago that the passing of the individuals who had brought on the antitrust litigation in 1920 was no reason for relaxing the structural separation that had been decreed as a result of that litigation. Similarly, the fact that Greyhound has formally replaced the former owners of Armour is no cause for relaxing the strict prohibition on any combination between Armour and food companies such as Greyhound's other subsidiaries. The decree was, as we have shown, designed to provide a continuing protection against the kind of corporate relationship that ~~now~~ now exists and its literal language prohibits that relationship; the form or motivation of the acts that created the relationship are—apart from remedial matters that we shall discuss in the next section—strictly irrelevant to either the purpose or the literal prohibition.

III. THE DISTRICT COURT HAS, AND SHOULD HAVE EXERCISED, THE POWER TO REMEDY THIS INTERFERENCE WITH ITS DECREE BY ISSUING A SUPPLEMENTAL ORDER AGAINST GREYHOUND AFTER NOTICE AND HEARING

The only question remaining is whether the district court, as a court of equity, has the power to remedy this interference with its decree by a third party. Since Armour has taken no action in this matter, it obviously is not subject to punishment for contempt; nor could Armour, as a corporate entity, be meaningfully prohibited from allowing its stock to be sold to a forbidden owner or directed to do anything that would remedy such ownership. It is only by an order to Greyhound, the owner of Armour and its sister food subsidiaries, that the court can dissolve the prohibited combination by directing divestiture either of Armour or of the other subsidiaries. Unless the court can issue such an order against Greyhound, with appropriate procedural safeguards, it is impotent to preserve the structural barrier that its decree established.[15]

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[15] The district court was plainly wrong in regarding its inquiry as ended when it found that the decree did not expressly prohibit a non-party such as Greyhound from taking over a defendant packer. Obviously a decree cannot be framed to run against all the world in this manner, including firms that might not even come into existence until after the decree has been entered. A court may not thus subject third parties to a direct risk of punishment for contempt without an opportunity to contest the order they are obliged to obey or even notice that it exists. See *Chase National Bank* v. *Norwalk*, 291 U.S. 431, 436–437; *Scott* v. *Donald*, 165 U.S. 107; *Kean* v. *Hurley*, 179 F.2d 888 (C.A. 8); *Alemite Manufacturing Corp.* v. *Staff*, 42 F.2d 832 (C.A. 2). Thus, the district court was purporting to look for something that could not possibly exist. The kind of specific supplemental order that we seek to have entered against Greyhound is, as we shall show, of a very different nature.

Courts of equity are not condemned to such impotence. The simple fact that a person was not a party to a decree when it was first issued does not immunize his future conduct from any impact of that decree. Thus, if a nonparty interferes with or obstructs the operation of an injunction by acts in active concert or participation with a defendant, the nonparty may be held directly in contempt even though there is no injunction specifically against him. Such a person is "bound, like other members of the public, not to interfere with, and not to obstruct the course of justice." *Seward* v. *Paterson,* [1897] 1 Ch. 545, 554 (C.A.); *Marengo* v. *Daily Sketch, Ltd.,* 1 All Eng. Rep. 406 (H. of L. 1948). In federal practice, this aspect of a court's power to vindicate its authority against persons not named in a decree is reflected in Rule 65(d) of the Federal Rules of Civil Procedure.

Nor does the fact that none of the actual parties violates a decree render the decree court powerless to prevent a third party from obstructing its effectuation. The court's power in this situation derives from the inherent nature of its equitable jurisdiction, from the All Writs Act, 28 U.S.C. 1651(a), and in antitrust cases from the specific provisions of Section 5 of the Sherman Act (15 U.S.C. 5) conferring jurisdiction on the court to bring additional parties before it where the ends of justice so require.[16] It allows the

[16] The general principle was well stated in *Mississippi Valley Barge Line Co.* v. *United States,* 273 F. Supp. 1, 6 (E.D. Mo), affirmed *sub nom. Osbourne* v. *Mississippi Valley Barge Line Co.,* 389 U.S. 579:

> "It is well settled that the courts of the United States have the inherent and statutory (28 U.S.C.A. § 1651)

decree court to bring before it such a third party, not for punishment, but for a determination after appropriate hearing whether specific acts by the third party amount to such an interference with the effectuation of the decree as to warrant a supplemental injunction prohibiting such acts; only if such a supplemental injunction is then issued does the third party run the risk of punishment in a further contempt proceeding. Such orders against third parties acting independently of the party or parties bound directly by a decree have been used most notably to prevent interference with school desegregation pursuant to prior decrees. See, *e.g.*, *Kasper* v. *Brittain*, 245 F. 2d 92, 97 (C.A. 6), certiorari denied, 355 U.S. 834; *Faubus* v. *United States*, 254 F. 2d 797 (C.A 8); *Brewer* v *Hoxie School District No. 46*, 238 F. 2d 91 (C.A. 8).[17] A similar supplemental order is appropriate when, as here, that is necessary to prevent interference with the prophylactic structural restrictions of an antitrust decree.

There is, of course, no impediment to such supplemental relief arising out of the fact that the Meat Packers Decree began life as a consent decree rather than an adjudicated decree. For a consent decree is

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power and authority to enter such orders as may be necessary to enforce and effectuate their lawful orders and judgments, and to prevent them from being thwarted and interfered with by force, guile, or otherwise. [Citations omitted.] This rule applies whether or not the person charged with the violation of the judgment or decree was originally a party defendant to the action."

[17] See also, *Bullock* v. *United States*, 265 F.2d 683, 691 (C.A. 6), certiorari denied, 360 U.S. 909; *United States* v. *Wallace*, 218 F. Supp. 290 (N.D. Ala.); cf. *Federal Trade Commission* v. *Dean Foods Co.*, 384 U.S. 597.

not a private contract but a judicial act. *Swift II*, 286 U.S. at 115. It represents an independent exercise of judgment and power by the district court. *E.g., United States* v. *Carter Products, Inc.*, 211 F. Supp. 144, 147-148 (S.D. N.Y.); see *Utah Public Service Commission* v. *El Paso Natural Gas Corp.*, 395 U.S. 464, 476 n. 4 (Harlan, J., dissenting). And the Meat Packers Decree itself contemplated the entry of appropriate supplemental orders; under Paragraph Eighteenth, the district court retained jurisdiction "for the purpose of * * * adding to the foot of this decree such other relief, if any, as may become necessary or appropriate for [its] carrying out and enforcement."[18]

This is not a case in which the government is seeking to vary the substantive terms of a decree. We do not seek to make the decree bind unnamed and unidentifiable parties; the purpose of the petition against Greyhound is to obtain a narrow supplemental order directed to the concrete and specific situation that we brought before the district court, Greyhound's acquisition of Armour. The order would not bind any other third party or any other act that Greyhound might take, and it would not add to or subtract from the obligations of the existing parties to the decree. In other words, we take the decree as we find it, seeking merely a specific supplemental remedy essential to the effectuation of the original decree. There is, therefore,

[18] Indeed, even in the private contract context there is a remedy for a third party's interference with one party's enjoyment of his rights under a contract. A fortiori, a court must be able to remedy interference with a decree entered in the public interest to which the court itself is a party.

no similarity between the issues in this case and the issues that might arise if the government sought modification of the substantive terms of the Decree, and the showing the government is required to make in support of supplemental relief here in aid of the existing Decree is very different from what would be required for modification.[19]

A non-party such as Greyhound is of course entitled to a hearing in the district court before such a supplemental order is issued against it. The government's petition contemplated that such a hearing would be held, and the government was prepared to proceed with one when the district court cut the matter short by dismissing the petition. Such a hearing would permit the new party brought in under Section 5 of the Sherman Act[20] to make, first, the kind of argument that Greyhound made off the record below, and is making in this Court, that the decree does not as a matter of law or fact prohibit the situation sought to be remedied by a supplemental order; for example, it is open to Greyhound to seek to show that it is not in the forbidden food lines. Moreover, Greyhound could

[19] See *United States* v. *Atlantic Refining Co.*, 360 U.S. 19; *Hughes* v. *United States*, 342 U.S. 353; *Liquid Carbonic Corp.* v. *United States*, 350 U.S. 869, reversing *per curiam* 123 F. Supp. 653 (E.D.N.Y.); *Ford Motor Co.* v. *United States*, 335 *U.S.* 303; Compare *Chrysler Corp.* v. *United States*, 316 U.S. 556; *United States* v. *United Shoe Machinery Corp.*, 391 U.S. 244. *Hughes*, in dictum at 357; *Chrysler*, *supra;* and *United Shoe Machinery*, *supra*, emphasize the power of an antitrust court to achieve the purpose of its decrees after appropriate hearing.

[20] Section 15 of the Clayton Act (15 U.S.C. 25) contains a parallel provision applicable to proceedings under that Act.

adduce any special reasons why the situation in question should be allowed notwithstanding the prohibition of the existing decree; such a showing would ordinarily be like the showing that Armour itself as a Greyhound subsidiary would make if it sought modification of the decree.[21] Finally, the hearing would deal with the relief to be given in the supplemental order; for example, it might be appropriate in this case to allow Greyhound to divest itself of its food subsidiaries other than Armour, in which event the government would not object to the retention of Armour.

Greyhound asserts in its motion to affirm (pp. 3–12) that, on the facts of this case, its ownership of Armour is immunized by asserted past interpretations of the Meat Packers Decree in the government's dealing with other parties. In substance, Greyhound argues that the government is estopped to assert the structural restrictions of the Decree because it has not acted against other possible violations of those restrictions involving (1) the common interests of the Prince

[21] *United States* v. *Bayer Co.*, 105 F.Supp. 955 (S.D.N.Y.) allowed the government to bring in a third party for proceedings looking to the effectuation of a consent decree, but denied the government relief in the particular circumstances of that case. Substantively the *Bayer* case stands simply for the proposition that a consent decree forbidding one of the parties to a contract to perform its obligations thereunder cannot bind the other party to the contract, who could have been but was not made a party to the antitrust litigation from which the decree resulted. Whenever such special considerations exist, they can of course also be asserted at the hearing on the supplemental order. But there is no such unusual situation in this case.

family (beginning some 35 years ago) in Armour and the Chicago Union Stockyards and (2) the common ownership by Ling-Temco-Vought, Inc. (LTV) of Wilson and Jones & Laughlin Steel Corp. It suffices to point out the obvious proposition that even if the government had acquiesced in prior violations (or chosen for any one of a variety of reasons not to institute litigation, a matter within the prosecutor's discretion), that would not disqualify it from proceeding against a different party on a wholly separate situation.[22]

[22] Neither the Prince situation nor the LTV situation is as analogous to the present situation as Greyhound suggests.

The Prince situation did not involve any corporate relationship between Armour and the Stockyards, in which Armour was prohibited from owning any interest under Paragraph Seventh of the Decree. Greyhound points only to the fact that several officers and directors of Armour had individual interests in the Stockyards which might or might not have amounted to an indirect interest of Armour. This is quite different from the present situation, where Armour and the food subsidiaries are together wholly owned by the same corporation.

With respect to LTV, Greyhound points only to the fact that the government has agreed to a settlement of a suit under Section 7 of the Clayton Act concerning LTV's 1968 acquisition of Jones & Laughlin; the settlement allowed LTV to keep Jones & Laughlin if it disposed of two others of its 20-odd subsidiaries involved in activities related to those of Jones & Laughlin. It is true that LTV also owned Wilson & Co., another of the packer defendants and that the "miscellaneous articles" included in the prohibition of Paragraph Fourth include "bar iron" and "structural steel", which are products of Jones & Laughlin. But the Meat Packers Decree was not in issue in the Jones & Laughlin suit, and there is nothing in that settlement that binds the government to the interpretation of the Decree that Greyhound asserts. See *United States* v. *Ling-Temco-Vought, Inc.*, 315 F. Supp. 1301 (W.D.Pa).

This case is not like *United States* v. *Atlantic Refining Co.*, 360 U.S. 19, where the Court declined to accept a government interpretation inconsistent with an interpretation it had affirmatively endorsed in prior dealings with the same parties on the very matter in dispute. Here, on the other hand, Greyhound is simply making the well-worn plea that the government should leave it alone because the government has allowed others to do other things that Greyhound contends were just as bad. Moreover, Greyhound cannot assert that it relied to its prejudice on any indication by the government that it would not object to its ownership of Armour. Greyhound was informed of the government's clearcut position by, *inter alia*, the litigation against General Host beginning in January 1969 and the specific statement that the Department of Justice made to Greyhound in its letter of November 24, 1969, long before Greyhound acquired Armour.

* * * * *

The impact of the decision below is not limited to the Meat Packers Decree. It generally sanctions business practices which would threaten the effectiveness of other government antitrust decrees, whether litigated or consent. For many other antitrust decrees provide similar structural relief in a variety of monopolization, merger and restraint of trade cases, most commonly to prohibit entry into certain lines of commerce by acquisition and sometimes, as here, to bar any kind of involvement in the prohibited lines.[23] The

[23] Representative structural decrees are set forth in the Appendix, *infra*, which we reprint from our *General Host* brief of last Term.

prophylactic separation that such structural decrees are intended to establish will be seriously undermined if nonparty firms in the forbidden lines can create the very relationship the decree has condemned. It is no answer to say, as did the court below, that "if the situation thus created is inconsistent with the antitrust laws, the government may bring an independent action * * *" (App. 86). As this Court noted in *Swift II*, the very reason for structural prohibitions such as the one we seek to effectuate here is "[t]he difficulty of ferreting out these [potential competitive] evils and repressing them when discovered * * *" (286 U.S. at 119). Thus, unless the ruling of the court below is reversed, structural antitrust decrees in general will be greatly weakened.

CONCLUSION

For the foregoing reasons, the judgment of the district court should be reversed and the cause remanded for further proceedings looking toward the issuance of a supplemental order requiring Greyhound to divest itself of Armour or of its conflicting food holdings.

Respectfully submitted.

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APPENDIX

Representative Structural Decrees

United States v. *Owens-Corning Fiberglas Corp.*, 1948–1949 Trade Cases, ¶62,442 (N.D. Ohio): defendant enjoined from acquiring any ownership in assets or securities of any person engaged in the manufacture, sale or distribution of fiber glass products. (Paragraph XI.)

United States v. *Loew's, Inc.*, 1950–1951 Trade Cases, ¶62,861 (S.D.N.Y.): distributor defendants enjoined from exhibition business and exhibitor defendants from distribution (except with court permission). (Paragraph VI.)

United States v. *Western Electric Co., Inc.*, 1956 Trade Cases, ¶68,246: Western Electric enjoined from engaging in any business (with limited exceptions) not of a type presently engaged in by Western for the companies of the Bell System; A.T. & T. enjoined from any business but common carrier communications; defendants enjoined from acquiring, either through securities or assets, any manufacturer of common carrier communications equipment. (Paragraphs IV, V, and VIII.)

United States v. *International Cigar Machinery Co.*, 1956 Trade Cases, ¶68,426 (S.D.N.Y.): defendant enjoined from acquiring, either by assets or securities, any person engaged in the cigar making machinery business. (Paragraph IX.)

United States v. *United Fruit Co.*, 1958 Trade Cases, ¶68,941 (E.D. La.): defendant enjoined from engaging in or acquiring any interest in a business engaged in importing or distributing bananas in the United States. (Paragraph VI(A)(2).)

United States v. *Anheuser-Busch, Inc.*, 1960 Trade Cases, ¶ 69,599 (S.D. Fla.): defendant enjoined from acquiring any shares of stock of any corporation brewing beer in Florida or acquiring any interest in any brewing facility or plant of any person engaged in the brewing of beer in Florida. (Paragraph IV (A).)

United States v. *Azteca Films, Inc.*, 1960 Trade Cases, ¶ 69,683 (S.D.N.Y.): defendant enjoined from establishing or acquiring ownership or control of any non-defendant distributor. (Paragraph IV(M).)

United States v. *Driver-Harris Co.*, 1961 Trade Cases, ¶ 70,031 (D. N.J.): defendants enjoined from acquiring a financial interest or capital stock of any other manufacturer of electric resistance materials. (Paragraph VIII(C).)

United States v. *MCA, Inc.*, 1962 Trade Cases, ¶ 70,459 (S.D. Calif.): defendant enjoined from engaging in or acquiring any interest in the talent agency business. (Paragraph IV(1).)

United States v. *America Corporation*, 1963 Trade Cases ¶ 70,923 (S.D. Calif.): defendant enjoined from acquiring all or any part of any interest in any person engaged in the business of professional film processing (except such a business in the New York metropolitan area and in the midwest area). (Paragraph VI.)

United States v. *The House of Seagram, Inc.* (S.D. Fla. 9/23/65) (opinion but not decree reported in 1965 Trade Cases, ¶ 71,517; see footnote 1, page

81,275): defendant barred from acquiring or retaining any financial interest in or participation in the management of any liquor wholesaler in Florida. (Paragraph VI(f).)

United States v. *General Motors Corporation,* 1965 Trade Cases ¶71,624 (E.D. Mich): defendant enjoined from owning any financial interest in another bus manufacturer. (Paragraph IV(A).)

United States v. *Joseph Schlitz Brewing Company,* 253 F. Supp. 129, at 183 (N.D. Calif.): defendant enjoined from acquiring stock of any corporation or any interest in any brewery engaged in the brewing of beer in California. (Paragraph IV.)

United States v. *Grinnell Corporation* (D. R.I., 7-11-67) (judgment not reported): defendant enjoined from acquiring the stock, assets or business of any enterprise engaged in furnishing central station protection. (Paragraph V(C).)

United States v. *Curtis Circulation Company, Inc.,* 1967 Trade Cases, ¶72,279 (D. N.J.): defendants enjoined from holding an interest in any national distributor or wholesaler of publications. (Paragraph VI(B).)

United States v. *Dentists Supply Co. of New York,* and *United States* v. *Pennsalt Chemicals Corp.,* 1967 Trade Cases, ¶72,321 and 72,322 (E.D. Pa.): defendants barred from acquiring any financial interest in any dental supply house. (Paragraphs V of both decrees.)

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